

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIES

PART 535
~~MERCURY CONTAMINATION~~
BACKGROUND CHECKS AND MERCURY COMPLIANCE

Section	
535.10	Definitions
535.20	Application
535.30	Background Checks
535.40	Work Performed on Regulators and Manometers
535.50	Reporting Mercury Tests
535.60	Mercury Reports to the Commission
535.70	Air Sample Test in Excess of Allowed Levels
535.80	Certification of Equipment

AUTHORITY: Implementing and authorized by Sections 8-501.5 and 8-505.5 of the Public Utilities Act [220 ILCS 5/8--501.5, 8-505.5].

SOURCE:

Section 535.10 Definitions

“Act” means the Public Utilities Act [220 ILCS 5].

“Commission” means the Illinois Commerce Commission.

“Pertinent safety law” means any applicable local, State and federal safety law.

“Pertinent environmental law” means any applicable local, State and federal environmental law.

“Public utility” means the same as that term is defined in Section 3-105 of the Act [220 ILCS 5/3-105].

“Work” means any maintenance, replacement, or inspection of equipment by a public utility or by a contractor for a public utility.

“Violation” means a written notice of noncompliance issued by a federal or state agency of competent jurisdiction within the last five (5) years prior to the hiring, promoting or transfer date as set forth more fully in Section 535.30 *Background Checks*.

Section 535.20 Application

For purposes of this Part, a public utility shall be responsible for any work performed by its agents or contractors on a facility used for the distribution of natural gas and for the manner in which the agents or contractors conduct mercury vapor tests and use mercury vapor testing equipment.

Section 535.30 Background Checks

- a) Before hiring, promoting, or transferring an employee to perform work involving facilities ~~into a position that involves work on facilities~~ used for the distribution of natural gas to customers, a public utility shall require each employee or potential employee to complete a certificate listing violations of pertinent safety or environmental laws by the employee or potential employee. Exempted from this requirement are existing employees of public utilities who were in positions with these public utilities that involved work on facilities used for the distribution of natural gas to customers of these public utilities on the effective date of this Part.
- b) Before hiring an independent contractor ~~to work on~~ to perform work involving facilities used for the distribution of natural gas to customers, a public utility shall require an owner or officer of the independent contractor, ~~and each of its employees proposed for the job, to complete~~ provide certificates listing violations of pertinent safety or environmental laws by the independent contractor and the contractor's employees that will perform the work.
- c) Before allowing replacement or additional independent contractor employees who were not previously covered under subpart (b) above to begin work on ~~involving facilities~~ used for the distribution of natural gas to customers, a public utility shall require the ~~replacement or additional independent contractor employees to complete certificates~~ independent contractor to provide certificates listing violations of pertinent safety or environmental laws by the independent contractor and the independent contractor's employees.
- d) A certificate of safety and environmental law violations completed by a potential public utility employee shall contain the following information:
 - 1) ~~Name and social security number~~ of potential employee;
 - 2) Potential employee's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the

amount of any penalty or fine, if any, assessed because of the violation;

- 3) Statement that the potential employee is providing truthful information;
 - 4) Notice to the potential employee that willful omissions of information from this certificate are grounds for employment termination; and
 - 5) Potential employee's dated signature.
- e) A certificate of safety and environmental law violations completed by an independent contractor firm shall contain the following information:
- 1) Identification of the specific public utility contract being sought by the independent contractor firm;
 - 2) Name and address of the independent contractor firm;
 - 3) Name and position held in the independent contractor firm by the person completing the certificate;
 - 4) Independent contractor firm's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine, if any, assessed because of the violation;
 - 5) Statement that the independent contractor firm is providing truthful information;
 - 6) Notice to the independent contractor firm that willful omissions of information from this certificate are grounds for contract termination; and
 - 7) Dated signature of independent contractor firm employee completing the certificate.
- f) A certificate of safety and environmental law violations completed by an independent contractor's ~~firm's~~ employee shall contain the following information:
- 1) Identification of the specific public utility contract being sought by the independent contractor firm or the existing public utility contract under which the employee will work;

- 2) Name and address of the independent contractor firm;
 - 3) Name, ~~social security number~~, and position held in the independent contractor firm by the employee;
 - 4) Independent contractor firm employee's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine, if any, assessed because of the violation;
 - 5) Statement that the independent contractor firm employee is providing truthful information;
 - 6) Notice to the independent contractor firm employee that willful omissions of information from this certificate are grounds for rejection by the public utility; and
 - 7) Dated signature of independent contractor firm employee.
- g) A public utility shall retain completed certificates of safety and environmental law violations and shall make these records available for inspection by the Commission.
- 1) For a period of five years after ~~contract termination~~ creation of the certificate, a public utility shall keep a certificates completed by an independent contractor firms, hired by the public utility, and the independent contractor firms' employees;
 - 2) For a period of five years after employment termination, a public utility shall keep certificates completed by employees.
- h) Information provided in the certificates referred in subsections (d), (e) and/or (f) of this Section shall be considered by these public utilities in making employment decisions regarding those individuals or entities furnishing these certificates to these public utilities.
- i) ~~A public utility shall require independent contractors, hired by the public utility, shall provide new certificates annually for the independent contractor firm and the independent contractor's employees. and the employees of the independent contractors to provide new certificates annually.~~

Section 535.40 Work Performed on Regulators and Manometers

- a) Prior to performing work at a customer location on a mercury-containing regulator or manometer used ~~to provide~~ in providing natural gas service, a

public utility shall test the air for mercury vapor in at least two locations: one location ~~within~~ one foot above or away from of the regulator or manometer and another location ~~within ten feet of~~ within 3 to 5 feet above the floor immediately adjacent to the regulator or manometer.

- b) After performing the work on a mercury-containing regulator or manometer used to provide natural gas service, a public utility shall test the air for mercury vapor at the same locations used for air sampling prior to performing the work on the regulator or manometer.
- c) When testing for mercury vapor, a public utility shall use mercury vapor testing equipment capable of detecting the presence of mercury at a sensitivity of at least 0.001~~3~~ milligrams (1 micrograms) per cubic meter of air for indoor locations and at a sensitivity of at least 0.005~~4~~ milligrams (5 micrograms) per cubic meter of air for outdoor locations.
 - 1) A public utility shall consider a confirmed reading of 0.003 milligrams (3 micrograms) per cubic meter of air as a positive indication of mercury for tests conducted inside a residential customer location premise;
 - 2) A public utility shall consider a confirmed reading of 0.01 milligrams (10 micrograms) per cubic meter of air as a positive indication of mercury for tests conducted ~~outdoors~~ at a non-residential location and outdoors at a residential customer location.
 - 3) For purposes of this section, a confirmed reading is one which has been obtained in the absence of any interference, or one that has been obtained by an alternative mercury vapor analyzer in such cases where an interference exists.
- d) A public utility shall conduct tests for mercury vapor in accordance with the guidelines set forth by the manufacturer of the mercury vapor testing equipment.
- e) A public utility shall not perform any mercury vapor tests under conditions that would counter the manufacturer's recommendations for use of the mercury vapor test equipment.
 - 1) A public utility shall postpone non-emergency work on mercury containing regulators or manometers until mercury vapor testing conditions are favorable for accurate readings from its mercury vapor test equipment per the mercury vapor testing equipment manufacturer's recommendations, except that (a) if the work involves regulators or manometers located outdoors, the public utility may perform the work, but shall return to the work site and

test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment, (b) if the work involves regulators or manometers located inside a customer location, the public utility may request permission from the Commission to proceed with the work.

- 2) A public utility may perform emergency work on mercury-containing regulators or manometers without conducting the required mercury vapor test if conditions are not suitable for accurate readings from its mercury vapor test equipment, but shall return to the work site and test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment.

Section 535.50 Reporting Mercury Tests

- a) A public utility performing a mercury vapor air sample test required by Section 535.40 shall complete a mercury vapor test report form, and the test report form shall have spaces for the following information:
 - 1) Address where the mercury-containing regulator or manometer is or was located;
 - 2) Indication of whether a the regulator or manometer was located inside or outside of customer's ~~premise~~ location;
 - 3) Indication of whether a regulator or manometer is at the specified location, and the type and model of such regulator or manometer;
 - 4) Indication of whether the regulator or manometer remained at the specified location or was removed;
 - 5) Name of the public utility providing natural gas service to the property;
 - 6) Name of person conducting the test;
 - 7) Date and time of the test;
 - 8) Level of mercury vapor found at each test location;
 - 9) General description of each air sample test location;
 - 10) Name and model number of the device used to conduct the test;

- 11) Date of original work and explanation of testing delay if testing was postponed due to circumstances covered in Section 535.40(e)(2); and
 - 12) Dated signature of person completing the mercury vapor test report.
- b) ~~A public utility shall complete a mercury vapor test report form immediately after performing the test and prior to leaving the location of the mercury containing regulator or manometer where the public utility performed the test.~~
- cb) ~~Immediately~~ aAfter performing mercury vapor tests and completing the mercury vapor test report forms, a public utility shall, if requested, provide a copy of the mercury vapor test report forms to the occupant or owner of the property where the public utility performed the tests. A public utility shall mail a copy of the completed mercury vapor test form in a first class envelope addressed to the occupant or owner within three working days of the date of mercury vapor air sample test.
- dc) A public utility shall retain an original copy of each mercury vapor test report form for five years. A public utility shall make these records available for inspection by the Commission staff upon request.

Section 535.60 Mercury Reports to the Commission

- a) No later than April 1 of each year, a public utility offering natural gas service shall file an annual mercury compliance report with the Chief Clerk of the Commission. The report shall contain the following information for the previous calendar year:
- a1) Number of locations that required a mercury air sample test; and
 - b2) Identification of locations that contained mercury air sample tests in excess of the allowed levels set forth in Section 535.40(c) and the quantity concentration of mercury vapor detected by the public utility at each location.
- b) If a public utility reports no activity regarding the removal of mercury regulators or manometers used in providing natural gas service for a period of three consecutive years and certifies by affidavit that it has conducted a visual survey of its system to verify that there are no known locations with mercury containing regulators or manometers used in providing natural gas service, then the utility is exempted from the reporting requirement.

- c) A public utility's exemption from the reporting requirements in Section 535.60 ends in the event that:
- 1) The public utility discovers a mercury containing regulator or manometer used in providing natural gas service within its system;
or
 - 2) The public utility merges with another Illinois natural gas utility or purchases Illinois service territory from another public utility that has not met the requirements of 535.60 (c).

Section 535.70 Air Sample Test in Excess of Allowed Levels

- a) For each mercury vapor test result in excess of the limits set forth in Section 535.40(c), a public utility shall immediately notify all applicable ~~local~~, State and federal authorities with jurisdiction of its findings and develop the appropriate mercury contamination clean-up procedure with those authorities, to the extent such notification and clean-up is required under pertinent environmental laws or pertinent safety laws.
- b) ~~For~~ If a public utility is required, as discussed under subsection (a), to conduct a clean-up, the public utility shall maintain a file of all correspondence regarding each location where it obtained a confirmed mercury vapor test result in excess of the limits set forth in Section 535.40(c) for a period of five years after it receives confirmation from the appropriate local, State or federal authorities that its mercury clean up activities are completed and no further work in this regard is needed, a public utility shall maintain a file of all correspondence regarding each location where it obtained a mercury vapor test result in excess of the limits set forth in Section 535.40(c).

Section 535.80 Certification of Equipment

A public utility shall follow the manufacturer's testing, maintenance and certification recommendations for all mercury vapor testing equipment used to test for the presence of mercury vapor.

- a) Notwithstanding the manufacturer's requirements, ~~a public utility shall certify~~ the accuracy of all mercury vapor testing equipment shall be certified annually.
- b) A public utility shall maintain a copy of the most recent accuracy certification for ~~keep with~~ each item of mercury vapor testing equipment, a copy of the equipment's most recent accuracy certification by the public utility.

c) A public utility or its agents shall follow manufacturer's recommendations regarding functionality tests of all mercury vapor testing equipment. A public utility shall maintain copies of all functionality tests conducted since the last certification of the mercury vapor testing equipment. A public utility shall perform functionality tests on its mercury vapor testing equipment by testing that equipment with a known concentration of mercury vapor prior to conducting on-site testing at the customer's premise. If the functionality test shows a difference of more than 0.002 milligrams per cubic meter of air between the known concentration of mercury vapor and the readout of the mercury air sampling equipment, then the public utility shall:

- 1) ~~Recalibrate the mercury vapor testing equipment to obtain the proper setting and perform another functionality test to ensure proper operation; or~~
- 2) ~~Use different mercury vapor testing equipment that meets the requirements of the functionality test.~~